

ASSEMBLY BILL

No. 2406

Introduced by Assembly Member Buchanan

February 24, 2012

An act to amend Section 1861.05 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2406, as introduced, Buchanan. Insurance: rates.

Existing law, the Insurance Rate Reduction and Reform Act (enacted by Proposition 103, as approved by the voters at the November 8, 1988, statewide general election), prohibits a rate from being approved or remaining in effect which is excessive, inadequate, unfairly discriminatory, or otherwise in violation of the applicable provisions of law.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1861.05 of the Insurance Code is
2 amended to read:
3 1861.05. Approval of Insurance Rates. (a) ~~No~~A rate shall
4 ~~not~~ be approved or remain in effect ~~which~~ *that* is excessive,
5 inadequate, unfairly discriminatory, or otherwise in violation of
6 this chapter. In considering whether a rate is excessive, inadequate,
7 or unfairly discriminatory, ~~no~~ consideration shall *not* be given to

1 the degree of competition, and the commissioner shall consider
2 whether the rate mathematically reflects the insurance company's
3 investment income.

4 (b) Every insurer ~~which~~ *that* desires to change any rate shall
5 file a complete rate application with the commissioner. A complete
6 rate application shall include all data referred to in Sections 1857.7,
7 1857.9, ~~1857.15~~, and 1864 and ~~such~~ other information as the
8 commissioner may require. The applicant shall have the burden
9 of proving that the requested rate change is justified and meets the
10 requirements of this article.

11 (c) The commissioner shall notify the public of any application
12 by an insurer for a rate change. The application shall be deemed
13 approved ~~sixty~~ 60 days after public notice unless (1) a consumer
14 or his or her representative requests a hearing within ~~forty-five~~ 45
15 days of public notice and the commissioner grants the hearing, or
16 determines not to grant the hearing and issues written findings in
17 support of that decision, or (2) the commissioner on his or her own
18 motion determines to hold a hearing, or (3) the proposed rate
19 adjustment exceeds ~~7%~~ 7 percent of the then applicable rate for
20 personal lines or ~~15%~~ 15 percent for commercial lines, in which
21 case the commissioner ~~must~~ *shall* hold a hearing upon a timely
22 request. In any event, a rate change application shall be deemed
23 approved 180 days after the rate application is received by the
24 commissioner (A) unless that application has been disapproved
25 by a final order of the commissioner subsequent to a hearing, or
26 (B) extraordinary circumstances exist. For purposes of this section,
27 "received" means the date delivered to the department.

28 (d) For purposes of this section, extraordinary circumstances
29 include the following:

30 (1) Rate change application hearings commenced during the
31 180-day period provided by subdivision (c). If a hearing is
32 commenced during the 180-day period, the rate change application
33 shall be deemed approved upon expiration of the 180-day period
34 or 60 days after the close of the record of the hearing, whichever
35 is later, unless disapproved prior to that date.

36 (2) Rate change applications that are not approved or
37 disapproved within the 180-day period provided by subdivision
38 (c) as a result of a judicial proceeding directly involving the
39 application and initiated by the applicant or an intervenor. During
40 the pendency of the judicial proceedings, the 180-day period is

1 tolled, except that in no event shall the commissioner have less
2 than 30 days after conclusion of the judicial proceedings to approve
3 or disapprove the application. Notwithstanding any other provision
4 of law, nothing shall preclude the commissioner from disapproving
5 an application without a hearing if a stay is in effect barring the
6 commissioner from holding a hearing within the 180-day period.

7 (3) The hearing has been continued pursuant to Section 11524
8 of the Government Code. The 180-day period provided by
9 subdivision (c) shall be tolled during any period in which a hearing
10 is continued pursuant to Section 11524 of the Government Code.
11 A continuance pursuant to Section 11524 of the Government Code
12 shall be decided on a case by case basis. If the hearing is
13 commenced or continued during the 180-day period, the rate
14 change application shall be deemed approved upon the expiration
15 of the 180-day period or 100 days after the case is submitted,
16 whichever is later, unless disapproved prior to that date.